

STATE OF WASHINGTON



**OFFICE OF
INSURANCE COMMISSIONER**

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF WASHINGTON**

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In the Matter of) No. D 2000 - 98

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**AMERICAN
NATIONAL
INSURANCE
COMPANY**

) CONSENT ORDER
LEVYING A FINE

An Authorized
Insurer

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FINDINGS OF FACT:

1. American National Insurance Company ("ANICO", "American National", or the "Company") is a life and disability carrier licensed to do business in the State of Washington.
2. The Office of the Insurance Commissioner ("OIC" or the "agency") conducted a market conduct examination of American National for the period of January 2, 1992 through December 31, 1996. The examination focused on the Company's sales, marketing, agent licensing, and replacement practices. The ANICO examination report was adopted on April 21, 2000.
3. The OIC looked at a representative sample of the policies ANICO issued in Washington State. The agency used sampling techniques approved by the National Association of Insurance Commissioners to establish its findings.
4. The examination reviewed ANICO's replacement activities. Washington regulations set

strict procedures on such activity to assure a full and truthful disclosure to the public of all material and relevant information in the advertising of life insurance policies and annuity contracts.

5. ANICO misrepresented the terms of its policies when it replaced consumers' existing insurance coverage. Eighteen of the 156 policies sampled contained misrepresentations or incomplete information. For example, ANICO replaced a life insurance policy with an annuity without mentioning that the replacement would result in the loss of a \$75,000 death benefit. In another instance, ANICO failed to mention that the bonus it was promoting did not vest until the twenty-first year of the policy. Such misrepresentations induced or had the tendency to induce consumers to surrender their coverage and buy the products that ANICO was offering.
6. Ten of the 56 policies sampled showed that ANICO failed to furnish consumers with a summary of the contract's most important terms.
7. Twenty-four of the 56 policies sampled revealed that ANICO had not given adequate notice that it was replacing a policy to the existing insurer, thereby depriving that Company of the opportunity to retain its policyholders.
8. The true extent of ANICO's replacement activity is unknown because the Company failed to maintain a replacement register. It reported no replacement activity in 1992 and 1993, and only reported issuing three replacement policies for the ensuing five-year period. ANICO concedes that the actual amount of replacement activity was much higher.
9. The examination reviewed ANICO's agent appointment practices and found that in thirty-nine of the 1,349 policies sampled, the Company paid override commissions to agencies which had not been appointed by the Company at the time the policies were written, although the individual agents who wrote the policies were appointed with the Company.
10. ANICO cooperated fully with the OIC's investigation.
11. ANICO recognized certain deficiencies existed in their business practices and began to take remedial action as early as 1995. The Company also took substantial additional remedial action prior to the resolution of this matter.

CONCLUSIONS OF LAW:

1. ANICO's misrepresentation of policy terms is a violation of RCW 48.30.090 and RCW 48.30.180.
2. ANICO's failure to provide insureds with a contract summary setting forth essential financial data is a violation of WAC 284-23-455.
3. ANICO's failure to provide timely notice regarding replacements to existing insurers is a violation of WAC 284-23-455.
4. ANICO's failure to maintain a replacement register containing evidence of the Company's replacement activity is a violation of WAC 284-23-455.
5. ANICO's payment of override commissions to unappointed agencies is a violation of RCW 48.17.160.

6. RCW 48.05.185 authorizes the Commissioner to impose a fine in lieu of the suspension or revocation of a Company's certificate of authority.

CONSENT TO ORDER

American National Insurance Company wishes to resolve this matter without further administrative or judicial proceedings and, therefore, hereby admits to the foregoing Findings of Fact and Conclusions of Law. The Company hereby consents to the entry of this order.

The Commissioner has offered a settlement in lieu of suspending or revoking the Company's certificate of authority.

By agreement of the parties, the OIC will impose a fine of \$400,000, and suspend \$200,000, on condition that:

1. American National pays \$200,000 of the fine for its violations of Washington insurance law.
2. American National follows the procedures in its Compliance Plan set forth in Exhibits A - C.
3. American National commits no further violations of the statutes and regulations that are the subject of this Consent Order for a period of two years from the date on which this Order is entered. The Company shall not be subject to the suspended portion of the fine should it commit isolated, de minimis violations of the laws which are the subject of this agreement, as determined by the OIC.

This fine must be paid in full within thirty days of the entry of this Order. Pursuant to RCW 48.05.185, failure to pay the fine within the allotted time shall constitute grounds for revocation of the insurer's certificate of authority, and for the recovery of the fine in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

American National acknowledges its duty to comply fully with the applicable laws of the State of Washington.

EXECUTED this _____ day of _____, 2000.

Gareth W. Tolman

Sr. Vice President - Corporate Affairs

American National Insurance Company

ORDER

Pursuant to RCW 48.05.185, the Insurance Commissioner hereby imposes a fine of four hundred thousand dollars, with two hundred thousand dollars suspended, upon American National Insurance Company. The fine must be paid in full within thirty days of the date of entry of this order. Failure to pay the fine within the allotted time shall constitute grounds for the revocation of the insurer's certificate of authority, and for the recovery of the fine in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

American National will perform Conditions One through Three as set forth in the "Consent to Order" section of this Order. Execution of this Consent Order and fulfillment of the terms and conditions of this order will settle all violations arising from the Market Conduct Examination of American National's Washington operations which resulted in the report adopted on April 21, 2000. The Commissioner may impose the balance of the suspended fine and suspend or revoke American National's certificate of authority should the Company fail to meet these conditions.

ENTERED AT OLYMPIA, WASHINGTON, this _____ day of _____ 2000.

Jeffrey Coopersmith

Deputy Commissioner for Legal Affairs